THE HON'BLE SRI JUSTICE BILAL NAZKI
AND
THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION No.13679 of 2005

Date: 01-11-2006.

Between :

Bodipaga Kiran Kumar & another.

.....Petitioners

And

Government of Andhra Pradesh, rep. by its Secretary, LAW (LA & J COURTS, C1) Department & others.

.....Respondents.

THE HON'BLE SRI JUSTICE BILAL NAZKI
AND
THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

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ORDER: (Per Hon'ble Sri Justice Bilal Nazki)

Heard learned counsel for petitioners Mr.P.V.Sanjay Kumar and Smt.M.Bhaskara Lakshmi, Standing Counsel for the High Court of A.P.

This writ petition is filed by two persons who sought appointment to the post of Junior Civil Judge. The selections were made by respondent Nos.1 and 2 for recruitment of reserved categories as Junior Civil Judges. The notification was issued on 11.08.2003 and at that point of time, the Andhra Pradesh Scheduled Caste (Rationalization of Reservations) Act, 2000 (Act 20 of 2000) (for short 'the Act') was in force. By virtue of this Act, the Scheduled Castes had further been categorized into four categories being SC-A, SC-B, SC-C and SC-D. The petitioners' name appeared in the selected list

prepared by the High Court in terms of Rule 5 of the A.P. Judicial Service Rules (for short 'the Rules'). However, before the appointments could be made, the Act was struck down as unconstitutional by the Supreme Court. Thereafter, it appears that the State of Andhra Pradesh presented a petition before the Supreme Court contending therein that since the Act remained operative for a long time and during that time certain persons had been appointed, certain persons had been promoted and certain persons were admitted to educational institutions on the basis of selections made in accordance with the Act, the judgment of the Supreme Court dated 05.11.2004 be declared to be prospective in operation, as otherwise, many many people would be out of educational institutions or out of jobs. The Supreme Court, while disposing of the application, being I.A.No.2 in Civil Appeal No.6934 of 2000 on 25th of September 2006, passed the following order—

> "We have heard counsel for the parties.
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> In these applications for directions/clarification substantially the prayer made by the State of Andhra Pradesh is that the judgment of this Court in Civil Appeal No.6758 of 2000 and other connected matters dated 5.11.2004 should be declared to be prospective in operation. By the aforesaid judgment while allowing the appeals and setting aside the judgment and order of the High Court of Andhra Pradesh, this Court struck down as unconstitutional The Andhra Pradesh Scheduled Castes (Rationalisation of

Reservations) Act, 2000 (A.P.Act 20 of 2000). It is submitted that on the basis of the aforesaid legislation many students were admitted to educational institutions on the basis of reservation therein provided and large number of persons were appointed on that basis as well. Some of them have also since been promoted.

Counsel appearing on behalf of the non-applicants, who were appellants in these appeals have no objection to a clarification being given that all selections made and admissions granted in educational institutions prior to the judgment of this Court shall not be affected. Similarly, all appointments made prior to the judgment of this Court on the basis of reservation permitted by the Legislation which has been struck down by this Court, shall also not be affected. Promotions, if any, already granted before the judgment of this Court shall also remain unaffected. We direct accordingly.

We, however, clarify that no admission granted, appointment made or promotion granted subsequent to the judgment of this Court shall be valid, if they are in breach of the law laid down by this Court in its aforesaid judgment."

The Supreme Court has been very emphatic and clear that any admission granted or appointment made or promotion made subsequent to the judgment of Supreme Court, shall be invalid. What now petitioners want is an appointment, as according to the learned Counsel Mr.P.V.Sanjay Kumar, since the selection had been made under Rule 5 of the Rules and the selection list had to

remain operative for the period till the last selected candidate was appointed, therefore, it should be taken that the judgment of the Supreme Court would not apply. We are afraid that this contention of the counsel cannot be accepted on the ground that it is a settled law that mere selection does not entitle a person to be appointed. Secondly, the Supreme Court has made it clear that no appointment can be made on the basis of the Act after the pronouncement of the judgment of the Supreme Court. It can also be noted that sub-rule 4 of Rule 5 of the Rules lays down that every list prepared shall remain operative till the last person therein was appointed to the service. The list would have been remain operative till the last person was appointed provided the judgment of the Supreme Court had not intervened. Because of the operation of the judgment of the Supreme Court, the list prepared in accordance with the Act became inoperative.

For these reasons, we do not find merit in this writ petition, which is accordingly dismissed.

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(BILAL NAZKI,
J)

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(NOOTY RAMAMOHANA RAO, J)

1st November 2006

ajr